

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

TERRY ANDRE WILLIAMS,

Plaintiff,
vs. Civil No. 08-035 MV/RHS

CITY OF ALBUQUERQUE
POLICE DEPARTMENT, et al.,

Defendants.

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
REGARDING PLAINTIFF'S MOTION TO STAY OR DISMISS**

THIS MATTER comes before the Court on “Plaintiff’s Motion to Stay Proce[e]dings (or) Dismiss Without Prejudice” (“Motion to Stay or Dismiss”), filed May 12, 2008 [**Doc. No. 18**]. Plaintiff asks the Court to stay or dismiss this case “until a ruleing [sic] by the appeals court has been made on the criminal case.” (Motion to Stay or Dismiss at 1). In their response, Defendants oppose Plaintiff’s request for a stay, but “do not oppose dismissing the matter without prejudice.” (Defendants’ Response to Plaintiff’s Motion to Stay or Dismiss, filed May 15, 2008 [**Doc. No. 19**]).

The Court construes Plaintiff’s motion in the alternative for dismissal without prejudice as a request for voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a). Having considered the parties’ submittals, the Court finds that Plaintiff’s motion for dismissal without prejudice has merit and should be granted. Accordingly, the Court recommends that Plaintiff’s Motion to Stay or Dismiss be **granted** and this civil proceeding be **dismissed without prejudice**.

Within ten (10) days after a party is served with a copy of these proposed findings and recommendations that party may, pursuant to 28 U.S.C. § 636(b)(1), file written objections to such proposed findings and recommendations. A party must file any objections within the ten (10) day period allowed if that party wants to have appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.

Robert Hayes Scott
ROBERT HAYES SCOTT
UNITED STATES MAGISTRATE JUDGE